In all these States the functioning of the WIC program has been particularly noteworthy. In hearings before the Senate Agriculture and Forestry Committee in April, testimony was heard from such respected organizations as the American Dietetic Association supporting this expanded eligibility.

By including 4-year-olds in the WIC program we will help to insure adequate nutrition for needy children until they enter school and become eligible to participate in the school food programs. The only child nutrition program which includes children under 5 is the special food services program. Presently, only 14 percent of all low-income children under 5 participate in this program. Therefore, 86 percent of all low-income children under 5 are without this very necessary supplemental food. Including 4-year-olds in WIC will increase the number of needy preschoolers who have access to an adequate diet.

The preventive advantages of the WIC program are perhaps greatest during pregnancy. Research has shown that diet can directly affect the outcome of pregnancy. Currently, women who do not breastfeed are eligible to receive WIC benefits for only 6 weeks after delivery. While a woman may have returned to a normal biochemical and physiological condition within 6 weeks after delivery, it is unlikely that complete nutrition revitalization has had time to occur particularly in the case of low-income women. Expanding eligibility to 6 months post partum would insure adequate nutrition revitalization.

The past 2 years have demonstrated the importance and the great value of the WIC program. Now we have an opportunity to establish it in its most effective form. This amendment will make a major contribution to the program.

AMENDMENT NO. 671

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 4222), supra.

AMENDMENT NO. 672

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN (for himself, Mr. ABOUREZK, Mr. CASE, Mr. HARTKE, Mr. HATHAWAY, Mr. HUMPHREY, Mr. MCGEE, Mr. CLARK, Mr. MONDALE, Mr. RIBICOFF, Mr. TUNNEY, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 4222), supra.

Mr. MCGOVERN. Mr. President, this provision was originally submitted as an amendment to S. 850. In addition to Senator CASE, the other cosponsors included Senators ABOUREZK, HATHAWAY, HUMPHREY, MCGEE, TUNNEY, WILLIAMS, HARTKE, MONDALE, and RIBICOFF.

This amendment does two things: First, it raises from 175 percent to 200 percent of the income poverty guideline the eligibility level for reduced-price lunches, and, second, it mandates that the schools offer this program.

A mandate of the reduced price lunch program merely raises this program to the same status as the free and paid-for lunch programs which are currently mandated. This amendment has been unanimously accepted by a bipartisan majority of the House.

In practical terms, if this provision becomes law a child from a family of four that earns between $5000 and $10,000 per year will be eligible for a reduced-price school lunch.

Reduced-price lunches cost the student no more than 20 cents.

Obviously, this provision attempts to help those families who work but do not have much income, and families on low fixed incomes. Many people in rural areas, where family incomes are generally lower, would be aided by this amendment. At the present time, in order to receive a free lunch, children must be from extremely poor families. The income poverty guideline or fiscal year 1976 is $5000 for a family of four.

Unless a school offers the reduced-price program, and a substantial majority do not under the optional language of current law, a child from a family of four earning $5500 per year must pay the same for his or her lunch—45 cents is the national average—as a child from a family of four with an income of $40,000.

Given the 9.2 percent unemployment rate, and the 13.5 percent cost of living increase last year, this legislation could provide a great deal of help to the families hardest hit, but who fall just outside the normal levels of income necessary to receive support. These are the families whose tax dollars pay for this program, and they deserve a break.

By using the proven mechanism of school lunch, these families can be given some support while their children's health and well-being is protected by receiving a nutritious meal. And, this can be done without establishing a new Federal program, or new bureaucratic structure. Many state school food service persons have spoken with me about the success of the reduced-price lunch program and their desire to see it improved as this amendment does.

Mr. President, I shall include for the RECORD a list of the eligibility guidelines which would be in effect under this provision.

Mr. President, I believe that this amendment represents an intelligent and serious attempt to improve existing law. Congress has shown great leadership in beginning the reduced-price lunch program. I think now is a very good time to improve it and help our school children.

I ask unanimous consent that the list to which I have referred be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Income eligibility guidelines for reduce price lunches for fiscal year 1976

(Current law and McGovern-Case proposal)

[*In percent*]

Family size:	175	200
1	4,520	5,160
2	5,930	6,780
3	7,350	8,400
4	8,770	10,020
5	10,060	11,500
6	11,360	12,980
7	12,530	14,320
8	13,700	15,660

Mr. CASE. Mr. President, I am pleased to join Senator MCGOVERN in cosponsoring the amendment which would make mandatory the reduced price lunch and raise the eligibility level for it from 175 to 200 percent of the poverty income guideline.

Adoption of our amendment could increase participation in the reduced-price lunch by as much as 4 percent, and it would help the children who need the help the most.

Children are being forced to drop out of the school lunch program because their families simply do not have enough money to be able to purchase the nutritionally adequate lunch available through the school lunch program. I urge the Senate to act favorably on our amendment, in order to safeguard the health of these children.

Since this proposal was unanimously accepted by the House, its adoption by the Senate will guarantee children from low-income families a better diet.

As the original sponsor of legislation to make permanent the optional reduced-price lunch—termed a milestone by the American School Food Service Association—I view adoption of this amendment as yet another milestone.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 553

At the request of Mr. TUNNEY, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of amendment No. 553, intended to be proposed to S. 598, a bill to authorize appropriations for the Energy Research and Development Administration.

AMENDMENT NO. 586

At the request of Mr. PEARSON, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of amendment No. 586 intended to be proposed to the bill (S. 692), the Natural Gas Production and Conservation Act of 1975.

AMENDMENT NO. 590

At the request of Mr. DOMENICI, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of amendment No. 590 intended to be proposed to the bill (S. 1883), the Automobile Fuel Economy and Research Development Act of 1975.

ANNOUNCEMENT OF HEARINGS ON CRIMINAL JUSTICE INFORMATION AND SECTION-BY SESTION ANALYSIS OF S. 2008

Mr. TUNNEY. Mr. President, the Subcommittee on Constitutional Rights of the Committee on the Judiciary will hold 2 days of hearings, July 15 and 16, on S. 2008, the Criminal Justice Information Control and Protection of Privacy Act of 1975. The hearings will be held both days in room 2228 of the Dirksen Senate Office Building and will begin at 9:30 a.m. The subcommittee will hear from Federal, State, and local officials who are professionally involved with the use of criminal justice information.

At this point, I ask unanimous consent to insert in the RECORD a section-by-section analysis of S. 2008.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

The Criminal Justice Information Control and Protection of Privacy Act of 1975 is designed to provide minimum national standards for the maintenance, use and dissemination of personal information by criminal justice agencies in order to ensure the Security, accuracy and completeness of the information and to protect the rights of privacy of individuals who are the subjects of that information.

Section 101 contains the findings and states the basis for Congressional action. It recognizes the necessity of exchanges of information among criminal justice agencies, but notes the potential for infringement of individual rights if the information itself is inaccurate or incomplete, or is used or disseminated in an irresponsible manner. Acknowledging the primary role of the States, it nevertheless recognizes the interconnected role of Federal and State criminal justice information systems. It relies on the power of Congress to regulate interstate commerce in information and its power to impose restrictions on State and local criminal justice agencies receiving Federal funds or other benefits.

DEFINITIONS

Section 102 defines some of the key terms used in the bill, although not all terms are specifically defined.

"The administration of criminal justice" is defined to include the whole range of functions concerned with crime, from protective measures to prevent the commission of crimes through the rehabilitation of convicted persons. The term also specifically includes the collection, storage or dissemination of criminal justice information.

"Criminal justice agency" includes police, prosecutors, courts and corrections as well as a number of auxiliary services performed by governmental agencies. It includes not only those governmental units, such as police departments or district attorneys' offices, whose major function is criminal justice but also subunits of governmental agencies which perform criminal justice functions. Thus, the Criminal Section of the Civil Rights Division of the U.S. Department of Justice, or an equivalent state agency, would be a "criminal justice agency." Similarly, the Antitrust Division of the Department of Justice or an Inspector General's Office which is conducting a criminal investigation in a particular case would be a "criminal justice agency" for purposes of that case even if its primary function is civil in nature. "Agency" is not used in any rigid sense. An organized crime strike force composed of members of various agencies would nevertheless be a "criminal justice agency" within the meaning of the bill.

The term also includes central data processing centers that process criminal justice information as well as other kinds of information. Thus, a central State data processing unit that provides services for criminal justice agencies as well as numerous non-criminal justice agencies in the State would be considered a criminal justice agency to the extent that it processes criminal justice information, although the processing of such information might constitute a relatively small part of its total activities.

"Criminal jusice information" is the collective term for the following types of information which are defined separately—arrest record information, criminal record information, criminal history record information and correctional and release information. This definition is designed so that limited exchange of routine information reflecting the status of a criminal case and its history, or reports compiled for bail or probation, is not empaired as the information moves between government agencies.

The definitions of "criminal justice information," "criminal history information" and "arrest record information" should be read in conjunction with sections 103(c) and 203(h), which make it clear that the bill covers only filing systems indexed by name. It does not cover public records indexed by date, such as police blotters, incident reports or court records. The public, particularly members of the press, would still have access to such records and to other kinds of information that traditionally have been considered in the public domain.

"Arrest record information" is defined to include only that data on a typical "rap sheet" which indicates an arrest or initiation of charges but does not show the disposition of those charges. If a disposition is indicated, the information becomes "criminal history record information." If the disposition data indicates that the individual pleaded guilty or nolo contendre to criminal charges or was convicted of a criminal offense, the arrest and disposition data together constitute "conviction record information." This term also includes sentencing information and information indicating that outcome of any appeal of a judgment entered after a plea or conviction. If the disposition indicates that the arrest was concluded other than by a judgment of conviction—that is, that criminal charges were not brought, that prosecution was not begun or was abandoned or was indefinitely postponed, that charges were dismissed or the individual was acquitted on any grounds, or that the criminal proceedings growing out of the arrest were otherwise terminated in the individual's favor—the information constitutes "nonconviction record information."

"Disposition" is defined to include all actions that terminate an arrest or any criminal proceedings growing out of the arrest. In addition to the dispositions mentioned in the preceding paragraph, the term includes any other actions, by whatever name that may be used in particular States, that terminate criminal proceedings at any stage beginning from the time of arrest. It is important to note that a single case may have more than one disposition, such as a conviction, followed by sentencing, followed by a reversal on appeal or by parole, pardon or executive clemency.

"Correctional and release information" is defined to include reports prepared on an individual at various stages of the criminal justice process from bail to parole. It includes pre-sentence reports, medical and psychiatric reports as well as the more typical correctional data.

"Criminal justice intelligence information" includes information collected to anticipate or monitor possible criminal activity as distinguished from the investigation of specific criminal acts which have already occurred.

"Criminal justice investigative information" is that data compiled in determining who committed a specific crime and compiling evidence to prove guilt.

APPLICABILITY

Section 103 sets forth the coverage of the bill. Subsection (a) specifies that all Federal criminal justice agencies are covered, as are those State or local agencies which are funded in whole or in part by the Federal government. In addition, criminal justice agencies exchanging interstate information with Federal agencies, with federally-funded State or local agencies, or on an interstate basis are covered. In the latter case, the bill applies only to the extent of the exchange. Thus, a police department which maintains numerous records of its own and also exchanges some information with the FBI must comply with the bill in the handling of information sent to the FBI or received from it, but is not obligated to comply with the bill with respect to information which it collects and uses solely within the department without Federal funding or support.

Subsection (b) requires that information originally obtained from a foreign government or international agency and included with information subject to the bill be handled in the same manner as information generated within the United States. The bill does not prohibit exchanges of criminal justice information with foreign governments or international organizations, either pursuant to treaties or agreements or on an ad hoc basis. It requires, however, that the agency in the United States undertake to insure to the maximum extent feasible that the foreign agency receiving the information uses it in a manner consistent with the principles of the bill.

Subsection (c) excludes certain types of information from the application of the bill. Public information such as court opinions, court proceedings and police blotters remain public and are not subject to the restrictions in the bill. Motor vehicle or pilot license registries which are maintained for licensing purposes by departments of transportation, motor vehicles or similar licensing agencies are not subject to the restrictions in the bill. However, records of serious traffic offenses, such as manslaughter or drunk driving, which are maintained by criminal justice agencies, remain subject to the bill.

Military justice records remaining in the Department of Defense are exempt from the bill but if "absent without leave" or other military justice information is transferred to a Federal or State agency other than the Defense Department, it becomes subject to the bill. Similarly, criminal justice information exchanged with the Department of Defense is subject to the bill.

Statistical and analytical reports, such as the Uniform Crime Statistics, are not subject to the bill since individual offenders are not identified.

TITLE II

Title II of the bill specifies the basic restrictions on the maintenance, dissemination and use of criminal justice information and imposes certain obligations on criminal justice agencies.

Section 201 sets general restrictions on access to and use or dissemination of criminal justice information within the criminal justice community.

Generally, conviction records may be exchanged freely by criminal justice agencies. Correction and release information can be disseminated only to other criminal justice agencies or to the subject if permitted by statute or court order.

Raw arrest records and criminal history records which terminated in the defendant's favor may be disseminated to another criminal justice agency only where the individual has applied for a job at that agency, the individual's case has been referred to that agency for adjudication or the individual has been referred to the agency for supervision. Such records could also be made available on a relatively routine basis to law enforcement agencies once the agency had already arrested the individual in question. These records should be made available only on a very limited basis to law enforcement agencies prior to arrest when the information will be used to develop investigative leads and the officer can point to "specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information would be relevant to the act." The information should be available only on a "need-to-know", "right-to-know" basis. This means that the agency receiving the information has established procedures designed to assure that the per-

son receiving the information has demonstrated that he is a detective or patrolman performing detective functions and that he needs the information for a particular case.

The "specific and articulable facts" standard derives from the Supreme Court opinion in the case of *Terry* v. *Ohio*, 392 U.S. 1 (1968), in which the court permitted stop and frisk on such grounds. Based on the Terry language, in evaluating the reasonableness of a request for records for investigative purposes, "due weight must be given, not to (the officer's) inchoate and unparticularized suspicion or 'hunch' but to the specific reasonable inference which he is entitled to draw from the facts in light of his experience." 392 U.S. 27. In using the identical language, it is intended that an investigating officer should be able to justify requests for information with similar specificity.

The section also permits arrest records and nonconviction records to be made available to a law enforcement officer where the information might alert him of a danger to his life, or for "similar essential purposes." It is intended that where information is used for these purposes, its utility clearly outweighs any risk to the rights of the subject of the information. Such circumstances should be set out in agency procedures.

Criminal justice agencies must establish operating procedures "reasonably designed" to insure that the use and dissemination of arrest records and nonconviction records are restricted to the purposes authorized by this section. Where such information is obtained from another criminal justice agency, section 207(a)(3) requires that records of that exchange (either written or on computer tape) must be maintained for three years. Periodic audit of these records is required to ensure that the information is not being disseminated or used improperly. While it was not considered feasible to require a similar audit trial for arrest records used within the agency maintaining them, the agency is under an obligation to adopt some affirmative measures, such as training programs, directives, or other appropriate procedures which are designed to prevent abuse.

WANTED PERSONS AND IDENTIFICATION INFORMATION

Section 202 permits the use and dissemination of wanted person information and identification information for any authorized criminal justice purpose. Thus, wanted posters, mug shots may be shown to potential witnesses, and fingerprints may be used to identify crash victims. However, a fingerprint card which contains arrest record information may be used or disseminated only under the same procedures as other arrest record information. The section also provides that the use of automated fugitive or stolen property files, such as those maintained by the NCIC, is not restricted by the limitations on direct access to criminal justice information contained in other parts of the bill.

Section 203 sets forth policies for the dissemination and use of criminal justice information outside of the criminal justice system for such purposes as employment, licensing or credit ratings. Except for uses specifically authorized in the section or in other parts of the bill, only conviction records and certain arrest records may be made available for non-criminal justice purposes and then only if the specific purpose is expressly authorized by Federal or state law.

To satisfy the "expressly authorized" requirement, the statute must specifically deny employment, licensing on other civil rights or privileges to persons convicted of a crime or must require a criminal record check prior to employment, licensing or the like. The statute must refer explicitly to criminal conduct. Statutes which contain requirements or exclusions based on "good moral character" or "trustworthiness" or similar nonspecific bases would not be sufficient to authorize dissemination. The information released must be relevant to the authorized purpose and must be used only for that purpose. Thus, an arrest record obtained for employment screening could not be used to deny the individual a license or to revoke a license. The information may not be copied or retained by the recipient beyond the time necessary to accomplish the purpose for which it was made available. For example, where information is released for a statutorily authorized pre-employment investigation, the information must be destroyed or returned to the criminal justice agency from which it was received as soon as the initial employment decision is made. Should the information be required at a later time, it can be obtained by a new request to a criminal justice agency.

In all cases where information is requested pursuant to the above procedure, the requestor must notify the individual to whom the information relates that the information will be requested and that he has the right to review the information (pursuant to section 209) prior to its dissemination to ensure that it is complete and accurate. Individual notice in each instance is not required so long as the employment application form or license application form itself indicates that this type of information may be requested concerning the individual. Agencies which have authority to make continuing checks on the records of their employees or others must find some mechanism, such as an employee bulletin, to ensure that all those whose records may be obtained are made aware of that fact.

Nonconviction record information may not be made available pursuant to the general authorization discussed above. Arrest records may be made available only if the individual was formally charged and no more than a year has passed since charges were brought and if prosecution of the charge is still pending. Thus, before an arrest record without a disposition may be released for a noncriminal justice purpose, the criminal justice agency must have some affirmative indication that the charge is still pending.

Subsection (d) permits criminal justice information to be made available to qualified persons for research. A limited amount of discretion is provided the criminal justice agency in determining whether the individual seeking access does so with the good faith intent of using the information for research purposes. It is intended that the types of individuals permitted access be rather liberally construed as long as the applicant intends to seek statistical rather than individually identifiable information. As long as the individual has a research plan which relies upon such statistical information it is not the responsibility of the criminal justice agency to pass upon the qualifications of the individual to do the research or validity of the research design. It is assumed that this provision will be invoked mostly by scholars and students of the criminal justice system including investigative reporters from both the print and electronic media.

Section 203(e) contains a specific statutory authorization for the Immigration and Naturalization Service and the Department of State to obtain the criminal justice information about individuals that is necessary to enforce the immigration laws. However, they must adopt specific procedures to ensure that arrest record information is used as an investigative lead, and that any adverse decision based on arrest record information is reviewed at a supervisory level before a final decision is made. The agency's own procedures would specify the appropriate level of review.

A similar statutory authorization is provided in subsection (f) for the Treasury Department's Bureau of Alcohol, Tobacco and Firearms, Customs Service, Internal Revenue Service, and Office of Foreign Assets Control which have mixed civil and criminal functions and have specialized needs for criminal justice information in order to carry out their statutory duties. Again, the Treasury Department is required to adopt procedures to prevent the abuse of arrest record information.

The Drug Enforcement Administration of the U.S. Department of Justice would be authorized by subsection (g) to disseminate criminal record information (but not arrest record information) to registered drug manufacturers for purposes of enforcing the Controlled Substances Administration Act. The manufacturers themselves are not authorized to obtain the information from any other source except public records.

Announcement of arrest, convictions and similar stages of the criminal justice process to the press is allowed under subsection (h) as are announcements of the correctional status of an individual, *e.g.*, on furlough, on parole, etc., and new developments in the course of an investigation. These announcements must be related, however, to events that are on-going, rather than to past history. Thus, the announcement of an arrest should be made within a few days of its occurance, not five years later. While past criminal history is not to be volunteered to the public, it is permissible for a criminal justice agency to confirm certain matters of public record information upon specific inquiry. If the press, or any member of the public should inquire directly, "Was Joe Smith arrested by your Department on July 15, 1941?" and that fact can be ascertained from a police blotter or similar record of entry, a criminal justice agency may confirm it.

Section 204 authorizes the dissemination of criminal justice information for certain employment purposes. Subsection (a) provides that such information may be provided to the nominating, confirming or appointing authority of Federal, State or local governments in connection with the appointment of criminal justice agency executives, judges, or members of the Commission on Criminal Justice Information which would be established by the bill or similar state boards. In all cases, a written consent by the individual to be considered for the position and to have criminal justice information obtained in connection therewith is required.

Subsection (b) is the specific statutory authorization for access to criminal justice information in connection with Federal employment and security clearances. Since this section permits access to raw arrests without the subject's consent, it is intended that it be narrowly construed so that such information would be available only for "full field background investigations" similar to those conducted pursuant to section 3(b) of Executive Order 10450 on "Security Requirements for Government Employment" and described in greater detail in Chapter 736, Subchapter 2, Section 2-5 of the Federal Personnel Manual.

For employment investigations only unsealed arrest records and criminal history records may be made available. Sealed records may be made available for security clearance investigations, and for "top secret" security clearances investigative and intelligence information may also be made available. In every case, the individual must be put on notice at the time he is employed or otherwise takes action that initiates a background investigation that access to this type of information will be sought.

Subsection (c) prohibits agencies or persons who lawfully gain access to information from using the information for an improper purpose or from disseminating the information in a manner not permitted by the legislation.

Section 205 prohibits anyone who obtains

criminal justice information from further disseminating it to unauthorized persons. Thus, the pharmacists licensing board which has statutory authority to obtain criminal justice information may not pass that information on to a barber's licensing board that does not have a similar statute. An exception is made to permit rehabilitation officials to summarize criminal record information or correctional and release information or a prospective employer or others if this will assist the subject of the record and he consents. For example, a parole official assisting a convict about to be released in securing employment may summarize the convict's prison record to a prospective employer in order to help obtain employment. The record itself may not be disseminated, however.

Section 206 is based on a provision contained in Project SEARCH's model state statute and the Massachusetts arrest records statute. It places limitations on access to criminal justice information via categories other than name. With limited exceptions, inquiries must be based on identification of a specific individual rather than on other types of information classification such as crime characteristics or offender characteristics. For investigation purposes prior to the arrest of an individual, inquiries should be based upon individual names and other personal identifiers. After arrest, the inquiry must be based upon positive identification by fingerprints or the like. Subsection (b) requires agencies to adopt special procedures governing access to a criminal justice data bank by offense—i.e., a print-out on all persons charged with first degree burglary with certain physical descriptions or with a certain modus operandi and from a certain geographical area. Although few criminal justice data banks have this capability, grave risks are seen to the rights of data subjects if the computer is used routinely as a substitute for the experienced and cautious detective. Obviously, permitting unbridled access to computer printouts of names of individuals based on racial characteristics, geographical area or crime (e.g., persons arrested for engaging in unlawful demonstrations) would present grave policy and constitutional questions. Agency procedures must limit such inquiries to the investigation of particular criminal offenses and must limit dissemination of the information to those persons who need it for the performance of investigative duties.

Section 207 requires every agency covered by the Act to promulgate regulations on security, accuracy and updating and sets out in general terms what those regulations must provide. Each criminal justice agency must maintain for a period of three years a complete record, or audit trail, of the individuals who have access to its information and the purposes for which the information is requested. Subsection (b) allows the Commission created by Title III of the Act to suspend the provisions of this section as they relate to information collected prior to the effective date of the Act when the Commission determines that full implementation of this section is infeasible because of costs or other compelling factors. It is intended that the Commission explore all other alternatives before actually suspending a provision for old records. Therefore, it is intended that the provisions of this section might be more loosely construed with regard to old records than with new records. This approach is preferable to actual suspension of the provisions. For example, it might be argued that it would be too burdensome to require the FBI's Identification Division to go back and add "the nature, purpose and disposition" of all past requests in an effort to reconstruct audit trails for old records. In many cases the identity of the requestor might be sufficient to indicate "the nature, purpose and disposition" of the request. Obviously, some state licensing agencies could only request a rap sheet for one purpose, and if the agency's name appears on the audit trail, then the FBI could assume that the request was for that purpose. Rather than actually suspend the application of this subsection to old rap sheets, it would be preferable for the Commission to allow some flexibility in applying these provisions to old files.

Section 208 requires every agency or information system covered by the act to promulgate regulations on sealing or purging of information. Such regulations or procedures must provide for sealing or purging of information where required by a Federal or a State statute other than this Act or by Federal or State court order. Furthermore, the section requires that each agency promptly seal certain old conviction records unless a class of offenses are exempted by state or Federal law. It is intended that sealing a record might be accomplished by moving a record from a routinely available status to a status requiring a special procedure to gain access. In manual systems this might mean moving a record from open filing drawers to microfilm while in automated systems a record might be considered sealed by moving the information from on-line to off-line. An index of sealed records may be maintained but access to the index would be limited to law enforcement employees. Records can be unsealed by court order or automatically in certain circumstances, such as where the individual requests review pursuant to section 209 or where special access is permitted pursuant to section 204 in screening security clearances.

Section 209 requires every agency covered by the Act to establish the means for an individual to have access to his or her own arrest record information or criminal history record information and to challenge inaccurate or incomplete information contained therein. The section sets out what regulations to this end must provide. This section should be read along with Section 305, which provides court review procedures where the agency fails to comply with Section 209 or any other provision of the Act.

Sections 210 and 211 place limitations on the dissemination of criminal justice intelligence information (Section 210) and criminal justice investigative information (Section 211). As a general rule such information would be exchanged between criminal justice agencies only where a "need to know" and "right to know" had been demonstrated by the requesting agency and by officers and employees within the agency (See subsection 210(b) and 211(c)). "Need to know" and "right to know" means that the agency making the request must establish that it is conducting an investigation as part of its responsibilities in the administration of criminal justice and that it has good reason for needing the information for the investigation. Within the agency only those employees conducting the investigation or their superiors would have access to the incoming intelligence or investigative information.

Section 210 also provides that intelligence information should be collected on individuals only if there are grounds existing connecting that person with known or suspected criminal activity. It also provides for routine review of files to determine whether such grounds continue to exist (Subsection 210(b)). The same section also provides that intelligence information on an individual may be disseminated to a second agency only if that agency is able to point to "specific and articulate facts which, taken together with rational inferences from those facts, warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act." (Subsection 210(d)). This language, similar to that contained in Section 201, is based on the Terry case, and it is intended that it be interpreted in the same manner.

The section prohibits the entry of criminal justice investigative or intelligence information in an information system which maintains criminal history information. However, this should not be construed to prohibit the inclusion of criminal history information in intelligence or investigative files. Although investigative and intelligence information may be automated, remote access to such automated systems is generally prohibited.

However, the bill would permit the maintenance of an index to intelligence files which could be accessed by remote terminal from outside the agency. The index might maintain the name, identification record information, criminal history record information and other public record information on individuals upon whom more complete intelligence files exist. The requesting agency's request could be referred automatically via the index to another criminal justice agency possessing more complete information on the individual in question. It is intended that this index be operated in such a manner that it not undermine subsections (b), (c) and (d) of section 210 which provide the maintaining agency with a right to review all requests for access to its intelligence files. Therefore, such an index must be designed so that a requesting agency is not automatically informed of the existence of a file or the name of the maintaining agency but that the maintaining agency might be immediately and automatically informed of the request so that it can in its discretion respond to the requesting agency if it determines that the requirements of subsections (b), (c) and (d) have been met.

Section 211 also contains a provision permitting an individual to see his own investigative file where such disclosure is permitted under the Freedom of Information Act and other statutes or court rules. This provision would continue the practice of discovery in criminal cases in both the Federal and State courts. For example, section 3500 of title 18 of the United States Code, the so-called "Jencks Act" permits disclosure to a defendant of prior statements by witnesses to the police. Section 211 would not affect that type of disclosure.

Although intelligence and investigative information is generally restricted to criminal justice agencies, a limited exception is permitted for intelligence "assessments." It is understood that an intelligence assessment is a summary provided to a government official about the impact which certain intelligence information will have upon the operations of the official's agency or as an aid to making official decisions within his authority. Intelligence files are not made available in the course of such an assessment but only a summary of the contents of such file. The exceptions to the general prohibitions embodied in the "assessment" role are to be narrowly construed. Information should be made available to private persons only where there is imminent danger to their life or property. Also intelligence and investigative information would be available to noncriminal justice agencies pursuant to Section 204.

TITLE III: ADMINISTRATIVE PROVISIONS; REGULATIONS, CIVIL REMEDIES; CRIMINAL PENALTIES

Commission on Criminal Justice Information

Title III establishes the administrative and enforcement mechanisms for the bill.

Section 301 creates a cooperative Federal-State administrative structure for enforcement of the Act. A Commission on Criminal Justice Information is established as an independent agency with the responsibility for administration and enforcement of the Act. The Commission would be composed of thirteen members. The membership should reflect the varying attitudes of all segments of the criminal justice community: Federal

law enforcement, State law enforcement, the judiciary, corrections, and the private sector that deals directly in this area. The Attorney General automatically becomes a member with two other Federal representatives designated by the President. The other designated member will be on the recommendation of the Judicial Conference of the United States. However, because of the traditional reluctance of members of the judiciary to participate in such arrangements—perhaps because of separation of powers concerns—the appointment of the thirteenth member is made discretionary with the Judiciary Conference. The representative of the United States Judicial Conference would serve at the pleasure of the Conference.

Seven of the appointed members will represent state criminal justice agencies, a state criminal justice agency to be defined broadly so that serious attempts will be made to select some people who are other than law enforcement officials. The chairman will be designated from amongst these seven appointees. The two remaining appointed members will be private citizens well versed in privacy, computer technology and constitutional law.

Section 302 provides the guidelines for the compensation of the members of the Commission.

Section 303 was drafted to allay the concerns of many that this legislation would establish a ponderous bureaucracy that would become entrenched with time. This section provides a legislative life of five years for the Commission on Criminal Justice Information. So that the time that is legislatively given to the Commission is not circumvented, the time is not considered to run until at least a majority of the members have been appointed and qualified. This section also requires the Commission to report to the President and Congress upon its termination.

This allows Congress to evaluate the work of the Commission to determine whether the Commission accomplished the goal of establishing the guiding precedent for future administration of criminal justice information systems. At that point the Congress would have the alternative of passing the regulation and control of criminal justice information systems to the Attorney General or extending the life of the Commission.

Section 304 sets out the powers and the duties of the Commission on Criminal Justice Information. Among its powers is the authority to issue general regulations in enforcement of the letter and spirit of the Act. This action would follow consultation with representatives of criminal justice agencies which are subject to the Act and after notice and hearings pursuant to the Administrative Procedures Act. The power to regulate includes limiting the extent to which a Federal criminal justice agency may perform telecommunications or criminal identification functions for state or local criminal justice agencies or include in its information storage facilities criminal justice information or personal identification information relative to violations of the laws of any state.

This means that the Commission would have authority to determine the extent to which the national criminal justice information system could operate its own telecommunications system or rely upon existing systems such as the National Law Enforcement Telecommunications System (NLETS). There has been concern about recent suggestions that the Justice Department has authorized the Federal Bureau of Investigation to establish its own telecommunications system within the National Crime Information System. It would be preferred that existing state-based organizations such as NLETS be relied upon in the operation of a national criminal justice information system because an overconcentration of powers and responsibility in the Federal government for telecommunications would be unhealthy and might be an inappropriate encroachment upon state and local law enforcement. In respect to the concept of a federally chartered corporation and Board control of the telecommunications system the Committee shares the view of Richard Velde of LEAA:

". . . with respect to NLETS and any future developments that might occur, as far as an expanded telecommunications network for State and local criminal justice, as I indicated in my prepared testimony, we believe that the Project SEARCH model, of a policy board with an executive committee, much the same as is suggested in the chairman's bill, would be a very appropriate vehicle for policy determination and regulation of this kind of system.

"There is a danger, when any single agency, be it Federal, State, or local, has policy control over a network of this kind. We think the responsibility should be shared."

All of Title III, in particular the creation of the Commission and its authority over a national criminal justice information system and the telecommunications question is viewed as a mechanism for sharing decision-making on these issues among local, state and Federal agencies.

The Commission is further authorized to conduct hearings and compel the attendance of witnesses in accordance with Section 305. The Commission would have the power to enforce its subpoena in Federal Court. It could bring civil action for any injunctive relief as may be appropriate. It will also have the authority to conduct studies on any segment of the operation of criminal justice information systems and its compliance with the Act. Such studies might conclude with recommendations to the Congress for additional legislation. The Commission, further, has the authority to conduct audits and investigations it deems necessary to ensure enforcement of the Act. Most importantly, the Commission may delay the effective date of any portion of this Act on a selective basis up to one year. This delay can be based on any determination of the Commission of administrative necessity to financial necessity.

The duty of the Commission is one of an annual reporting requirement to the President and the Congress. It may issue any interim report as it deems necessary.

Section 305 provides the ground rules for the hearing process, including the issuance of subpoenas, the calling of witnesses, and the reimbursement of witnesses.

Section 306 provides for the staffing of the Commission on Criminal Justice Information. The director will be appointed by the President after consultation with the Commission. Other employees are subject to civil service qualifications. It should be noted that in an attempt to prevent the uncontrolled bureaucratic expansion of this new commission, the number of professional personnel is not to exceed fifty.

Section 307 encourages the states to create or designate an agency or office within their jurisdictions to exercise statewide responsibility for the enforcement of the Act. The Commission is expected to rely upon the determinations of such a state agency to the maximum extent possible.

Section 308 provides the judicial machinery for the exercise of the rights granted in Section 209 and elsewhere in the Act. The aggrieved individual may obtain both injunctive relief and damages, $100 recovery for each violation, actual and general damages, attorneys' fees, and other litigation costs whether violations were willful or negligent. An "aggrieved individual" covers an individual upon whom information is maintained, or used in violation of this Act or who is denied access to information to which he is entitled pursuant to any section of this Act. An "aggrieved individual" might also be a person denied information in violation of subsection 209(c). It does not require that the individual have suffered some further harm from the violation, such as loss of job or benefit, in order to have a cause of action. It is intended that the Commission may in its discretion intervene in any case in which it is not already a party and use in such litigation the results of any audit it might have conducted pursuant to Section 304.

New provisions have been added to the civil remedies section which would limit unnecessary interference by litigants with legitimate law enforcement activities. First, the section now provides an employee of a criminal justice agency or information system or the agency or information system with a complete defense to a damage action when he relies in good faith upon the representation of another agency or employee that information it disseminates is being handled in compliance with the Act. This provision would avoid the imposition of liability in circumstances where it would be impossible for an agency to recognize that information it receives or maintains is not conformity with the Act. For example, it would exculpate a telecommunications systems such as the National Law Enforcement Telecommunications System from liability for information it transmits in violation of the Act. Liability in that circumstance should fall on the agency which enters the information in the telecommunications system.

Second, the section would provide that a mere violation of this section could not be the basis for a motion to suppress evidence in a criminal proceeding. Of course, the provision does not limit the court's general supervisory authority to suppress evidence in circumstances of gross violation or in circumstances where the violation is of constitutional dimensions.

Section 309 provides criminal penalties for willful violations of the Act. (No prison penalty is provided.)

Section 310 provides authority for the Comptroller General to conduct certain audits and studies of the operations of the Commission on behalf of the Congress. In a letter to the Senate Subcommittee requesting inclusion of this provision the Comptroller General stated that although he thought the General Accounting Office's general statutory authority should be included in this legislation "because of the sensitive nature of the data involved." The Comptroller General also stated:

"While we fully support the intention of both bills that the administering executive agencies should be primarily responsible for properly managing the provisions of the bills, we also believe it is important that a specific provision be included in the bill providing the means for an independent congressional assessment of executive agencies' actions. In this way the Congress can have better assurance that the detailed audit by the executive agencies are adequate."

A provision almost identical to that proposed by the Comptroller General has been included.

Section 311 provides that any state statute or state regulation which imposes stricter privacy requirements on the operation of criminal justice data banks or upon the exchange of information covered by this Act takes precedence over this Act or any regulations issued pursuant to Section 304. The Commission would make the administrative decision as to which statute or regulation governs, and whether a regulation comports with this Act.

Section 312 authorized the appropriation of such funds as the Congress deems necessary for the purposes of the Act.

Section 313 is a standard severability provision.

Section 314 repeals a temporary authority for the Federal Bureau of Investigation to

disseminate rap sheets to non-criminal justice agencies. It also repeals the Privacy Act of 1974 insofar as that Act relates to criminal justice information.

Section 315 makes most of the substantive provisions of the Act effective one year after its enactment, except that the Commission can suspend the application of any provisions of the Act for up to one additional year. The Commission is authorized to order such further suspensions on a provision-by-provision basis where it deems it applicable.

JOINT ECONOMIC COMMITTEE HEARINGS ON ECONOMIC IMPACT OF OLD OIL PRICE DECONTROL AND OPEC PRICE INCREASE—ZARB, MORTON, AND GREENSPAN TO TESTIFY

Mr. HUMPHREY. Mr. President, the Joint Economic Committee's Consumer Economics Subcommittee has scheduled 2 days of hearings on the economic impact of old oil price decontrol and OPEC price increases. On July 10, the committee will hear from Messrs. Zarb, Morton, and Greenspan. Of specific concern will be administration actions under consideration to ameliorate the impact of higher energy prices due to old oil decontrol and OPEC actions.

In preparation, the committee staff is gathering econometric projections of the economic impact of possible energy price rises from Wharton and from the Congressional Research Service, using a variant of the DRI model. I placed an initial JEC staff evaluation in the RECORD on June 27; and a summary by Dr. Farb with the CRS of the economic impact we can expect from a 35-percent OPEC price jump is carried in today's RECORD.

On July 14, Dr. Charles Schultz of the Brookings Institution, Dr. Michael Evans of Chase Econometrics, and Dr. Eric Herr of Data Resources, Inc., will appear before the committee.

I cannot stress fully enough the need for Congress and the administration to deal during July with the threat to economic recovery posed by these impending energy price increases. Unlike the initial OPEC price hike in 1973, Congress and the administration can act decisively to ameliorate and even offset the economic impact of old oil decontrol and a further OPEC price rise.

In the case of old oil price control, Congress must firmly and quickly pass S. 1849, continuing the mandatory allocation program, including old oil price controls, for 6 months beyond August 31. This additional 6 months should then be used to effect a sensible compromise between Congress and the administration on energy.

NOTICE OF HEARING

Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture and Forestry has scheduled hearings on S. 1532, to require bonding of meatpackers, and S. 2034, to establish a Livestock Marketing Commission to administer the stockyards provisions of the Packers and Stockyards Act. The first hearing will be in Omaha, Nebr., July 19, in the AK-SAR-BEN auditorium, beginning at 9 a.m. The hearing in Washington will be July 25, room 324 Russell Office Building, beginning at 10 a.m. Oral presentations will be limited to 10 minutes, with the privilege of filing longer statements for the record. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

"OUR COUNTRY CELEBRATION" AT FORT McHENRY

Mr. BEALL. Mr. President, on the evening of July 4, 1975, a most impressive and unusual ceremony was held at Fort McHenry in Baltimore. Traditionally an "Our Country Celebration" is held at this location on Independence Day. This year there were two significant differences from the previous celebrations.

First of all, Judge Edward S. Northrop, Chief Judge, U.S. Circuit Court for the District of Maryland, convened his court at Fort McHenry and 60 immigrants were naturalized as citizens of the United States in a most impressive ceremony.

The second notable distinction from previous celebrations was the presence of the President of the United States. On the Fourth of July, 1975, President Gerald R. Ford honored Baltimore and Maryland by coming to Fort McHenry to participate in this annual celebration.

Before the new citizens and 25,000 spectators, President Ford delivered a moving and inspiring address that was the high point of a very special celebration at this historic location.

Mr. President, I ask unanimous consent that the address of President Gerald R. Ford be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT AT THE FIFTH ANNUAL "OUR COUNTRY CELEBRATION" FORT McHENRY

Governor Mandel and Mrs. Mandel, Senator Beall and Mrs. Beall, distinguished Members of the House of Representatives, Congressman Long, Congressman Gude, Congresswoman Holt, Congressman Bauman, Congresswoman Spellman, Congressman Sarbanes, Mayor Schaefer, our country's newest citizens, and all of you wonderful people from Baltimore and the great State of Maryland:

We meet here tonight at the twilight's last gleaming. The casement walls and the silent cannons of the Fort McHenry bear a very quiet testimony to the Nation's travail on another night in another age.

We all know that Francis Scott Key enshrined forever those events in 1814—the patriotism and the national pride surrounding our flag, our country, and their defense that night, our heritage—in a song and a verse.

The Star Spangled Banner is an expression of our love of country. We must not be so sophisticated, so blase that we ignore those simple but eloquent moments of our history.

We need to remind ourselves that America is really the land of the free and the home of the brave, and we should be proud of it.

We are honored, every one of us, by those who earlier this evening became our newest United States citizens, and we should give them a special round of applause right now.

They have chosen what often is taken for granted among many of us. The hallmark of our first century was the establishment of a free Government. In the face of the greatest odds, 13 poor struggling colonies became a fledgling Nation.

Its future, in those dark days and weeks and months, was insecure. In the first 100 years the Western movement accelerated, vast territories were acquired, States joined the Union, Constitutional issues were raised and wars were fought, none more devastating than the one that turned American against American.

Yet, through that horrible ordeal, it was resolved that this Nation would not endure half slave and half free. The Union was preserved.

By our Centennial in 1876, the American Republic had been securely established. Of this, there was no doubt, either at home or abroad.

Our second century has been marked by the growth of the great American free enterprise system. The pioneer spirit which carried us West turned us to new frontiers. Railroads spanned the Continent and became a web of steel linking city to city, region to region, town to town.

The automobile and its assembly line changed forever transportation and our manufacturing process in America. The Wright brothers mastered powered flight at Kitty Hawk. The age of flight was born.

From the first Atlantic crossing by the lone eagle, Charles Lindbergh, to the American astronauts who announced that the Eagle had landed, when touchdown on the moon, America's latest ship was again established.

The telegram. The telephone. The television. All are a great part of the communications revolution of our second century. Science, medicine, agriculture, production, marketing—these have been just a few of the modern frontiers since 1876.

But now our third century, I believe, should be an era of individual freedom. The mass approach of the modern world places a premium on creativity and individuality.

We see mass production, mass education, mass population. They must not smother individual expression or limit individual opportunity. Individualism is a safeguard against the sameness of society. A Government too large and bureaucratic can stifle individual initiative by a frustrating statism.

In America, and never forget it, our sovereign is a citizen. Our sovereign is the citizen, and we must never forget it.

Governments exist to serve people. The State is the creature of the populus. These propositions are the foundation stones of our Bicentennial. Today, in the 199 years of our independence, we stand on the threshold of a new American experience.

Let us make the coming year a great year on America's agenda of achievement. As we move to the Bicentennial of American independence, let us think where we will be and what we can achieve by next July 4, by the next decade, by the 200th anniversary of our Constitution and by the year 2000.

Let us resolve that this shall be an era of hope rather than despair. Let us resolve that it shall be an era of achievement rather than apathy. Let us resolve that it shall be a time of promises rather than regret.

The Bicentennial should be a time for each of us for self-examination and individual accomplishment. Quality and permanence should be the measurement of your life and my life and the life of 214 other million Americans in 50 States and our territories.

Let us pursue truths and values that will enhance the quality of life, of you and your fellow Americans. To form a more perfect Union—and that is what we want—we need to learn more of our country and more of our good people.

Americans must appreciate the diversity of our lands and the diversity of our citizens. There is a quotation that I learned in my